

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

13-CR-6172L

v.

DONALD REED,

Defendant.

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Defendant, Donald Reed (“Reed”), has been charged in an indictment with conspiracy to import from China quantities of a controlled substance, methylone. Reed moved to suppress evidence, and he also filed, *pro se*, a motion to dismiss.

The Court referred all pretrial motions to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b).

Magistrate Judge Payson received papers on the motions and conducted a suppression hearing on the motion to suppress. Jeffrey Maul, an inspector with the United States Postal Service, and Kristin Brownell and Jason Siuda, agents with Homeland Security Investigations, testified at the hearing.

At the conclusion of the hearing, Magistrate Judge Payson issued a thorough Report and Recommendation (Dkt. #30) discussing in detail the evidence advanced at the suppression hearing. The Government’s witnesses testified in detail about their investigation and the ultimate search of

two packages sent from China to the defendant. The investigation and the specific searches were performed without a warrant. Reed contends that the warrantless searches were impermissible and, therefore, the items seized should be suppressed.

In her Report and Recommendation, the Magistrate Judge disagreed with Reed's contention and found no basis to suppress. I agree. The Magistrate Judge discussed at some length not only the facts in this case but also the ample legal authority for the Government to conduct border searches of persons and property entering the United States. This border-search authority extends to searches of international mail, a right clearly recognized by the United States Supreme Court and other circuit authority, as set forth in the Magistrate Judge's Report and Recommendation.

Reed contends that the searches at issue were not border searches because they were conducted at some distance from the border. The law is clear though that an extended border search does not require a warrant if the activity is supported by "reasonable suspicion." The Magistrate Judge cited appropriate authority for that principle.

The Magistrate Judge concluded that the information known to the Government agents was more than ample to support a finding of "reasonable suspicion" that the packages at issue contained illegal drugs. Agent Siuda's testimony, concerning the examination of emails exchanged and his successful undercover purchase of drugs, all support the Magistrate Judge's conclusion that there was reasonable suspicion to warrant searching the packages sent into the United States through the JFK Airport in New York City. The packages were later seized and examined at the delivery location post office in the Western District of New York. Magistrate Judge Payson cited numerous cases which have upheld as permissible border searches, warrantless searches of international packages seized at the delivery location rather than at the actual border. All of those cases cited

support the Magistrate Judge's decision that the searches here were proper and, therefore, there is no basis to warrant suppression.

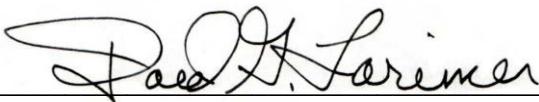
Magistrate Judge Payson also discussed the defendant's *pro se* motion. The Court cited the ample authority that a defendant has no absolute right to hybrid representation, that is, where both the defendant, *pro se*, and his attorney file motions or other matters for court consideration. A court need not permit such representation and need not accept *pro se* papers absent some "compelling" reason to allow defendant to supplement the services provided by his attorney. As the Magistrate Judge found, and I concur, there is no compelling reason for Reed to also submit motions and, therefore, I accept the Magistrate Judge's recommendation in this regard also and decline to consider Reed's *pro se* motion to dismiss.

## **CONCLUSION**

I accept and adopt the Report and Recommendation (Dkt. #30) submitted by United States Magistrate Judge Marian W. Payson relative to defendant's motion to suppress. I find no reason to alter, modify or reject that Report and Recommendation.

Defendant's motion to suppress evidence and his *pro se* motion to dismiss (Dkt. ## 10, 18, 27) are in all respects denied.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 9, 2014.